

# ANDOTHERS

## General Terms & Conditions

- A. **Quotations.** Quotations shall expire and shall be void thirty (30) days from date of the quotation, unless otherwise specified in the quotation. The quotation may be modified or withdrawn by ANDOTHERS at any time before ANDOTHERS' receipt of the Client's confirmation of acceptance. ANDOTHERS reserves the right upon written notice to the Client to correct any typographical or clerical errors made in any quotation before or after receipt of the Client's confirmation of acceptance, whereby ANDOTHERS shall provide the Client an opportunity to accept or reject ANDOTHERS' corrected offer. If wages and/or prices increase or any other unforeseen circumstance occurs after this Agreement has been concluded but before the work and services commissioned are fully completed, ANDOTHERS will be entitled to adjust the agreed rate of fees accordingly, unless the Client and ANDOTHERS have agreed otherwise in writing. To the extent possible, ANDOTHERS shall inform the Client in advance of any fee adjustments. In the event that a quotation is not accepted, ANDOTHERS shall be entitled to charge the party at whose request the quotation was made for the costs involved in producing that quotation, unless otherwise specified in the quotation.
- B. **Payment terms.** In consideration for ANDOTHERS supplying the Services and Deliverables, the Client agrees to pay ANDOTHERS the Fee within fourteen (14) days of receipt of the invoice. ANDOTHERS shall not commence any work on Services or Deliverables until the first 50% of the Fee has been received. The first 50% of the Fee is non-refundable. If the Client terminates this Agreement prior to completion of the Services and/or Deliverables, the Client will be liable for all costs and expenses incurred until the date of termination up to 100% of the Fee payable.

If ANDOTHERS work on a commission basis, the Client shall, at the end of each calendar month, send to ANDOTHERS a statement showing details of: (i) the products sold by the Client; (ii) the aggregate Net Price of the products sold to buyers during the relevant month in furtherance of any orders solicited by ANDOTHERS, as well as in respect of products sold during that month or previously (and in respect of which any commission is still due to ANDOTHERS); and (iii) the commission due on such aggregate Net Price, and shall send copies to [hello@andothers.studio](mailto:hello@andothers.studio) of all invoices issued to buyers by the Client during the relevant month, giving both the order number and details of the buyer.

ANDOTHERS will issue an invoice to the Client (in a form suitable for VAT purposes) in respect of each commission due to ANDOTHERS, as specified on the Client's statement, and ANDOTHERS's invoices shall be payable upon receipt. Payment of the commission shall be made on a monthly basis by irrevocable bank transfer, fixed value date on the due date, to the bank account designated by ANDOTHERS to the Client from time to time. Commissions shall be paid in EUR each month by the first week of the following month.

Event Costs shall be paid in EUR at least seven (7) days prior to the Event.

ANDOTHERS shall be entitled to set-off any payments or debts due by ANDOTHERS to the Client against any payments or debts due by the Client to ANDOTHERS, whether such payments or debts are due pursuant to this Agreement or otherwise.

If the Client does not pay the Fees in accordance with the payment schedule, the Client shall pay interest on the overdue invoices from the due date until payment date in accordance with the prevailing Dutch commercial rate.

Following expiry of the payment term, the Client will be deemed to be in default without prior notice being required. ANDOTHERS may claim statutory interest (*wettelijke rente*) and judicial and any out-of-court (collection) costs (*gerechtelijke- en buitengerechtelijke (incasso)kosten*) to enforce its rights under this Agreement. These costs shall be fixed at fifteen per cent (15%) of the principal due or such a lower percentage as required by mandatory law, with a minimum of € 250. The fixed compensation for judicial costs (*liquidatietarief proceskosten*) will not apply.



If the Client does not pay an invoice fully or timely, ANDOTHERS is also allowed to suspend or cease any work for the Client without being obliged to pay any potential damages resulting from such suspension.

- C. **Agency Surcharge.** If the Contractor engages third parties for the execution of the Services and/or Deliverables, the fees and out-of-pocket expenses of these third parties will be increased by a fifteen per cent (15%) agency fee & VAT and will be separately invoiced to the Client.
- D. **Indexation.** ANDOTHERS reserves the right to increase the agreed fees yearly as of 1 January by an annual indexation in accordance with the Dutch Consumer Price Index (CBS).
- E. **Client Materials.** The Client shall provide the following materials in order for ANDOTHERS to provide the Services or create the Deliverables (the “**Client Materials**”), including but not limited to:

- (I) artwork (such as photos, videos or any other supplied assets);
- (II) logos;
- (III) copy;
- (IV) client product;
- (V) data;
- (VI) client equipment.

- F. **Project Timeline.** The Client agrees that the project timeline (the “**Project Timeline**”), is always indicative and can only be regarded as a deadline if this has been explicitly agreed in writing between ANDOTHERS and the Client in so many words.

The Client shall inform ANDOTHERS in writing prior to commencement of ANDOTHERS’ activities in case one or more permits are required for the performance of the Services and/or Deliverables. The Client is responsible for the permit application and agrees that ANDOTHERS does not accept any liability for delays in its Services and/or Deliverables due to lengthy application procedures.

The Project Timeline will be extended by the period that performance of the assignment is delayed by due to force majeure or a permit application. The Project Timeline will also be extended if and for as long as the Client is late making a payment or complying with any other obligation than agreed on or than could reasonably be expected by ANDOTHERS, regardless of whether the Client is in default.

Upon exceeding the time/budget allocated to feedback review, ANDOTHERS shall be entitled to charge the Client additional costs.

- G. **Credits.** All communication regardless of the form or media about ANDOTHERS, the Services, Deliverables and/or their work shall only be made public by or on behalf of the Client after prior written approval of ANDOTHERS. ANDOTHERS has a final right of approval as regards any pictures used in such communication. Such approval shall not be withheld on unreasonable grounds.

Subject to the foregoing, all other characteristics of such credit or any other credit shall be determined by the Client in its sole reasonable discretion. No casual or inadvertent failure by the Client to comply with the credit requirements set forth above, nor any failure by third parties to so comply, shall constitute a breach of this Agreement by the Client.

When communicating via social media the Client warrants to tag ANDOTHERS at all times in the text:

Instagram> @andothers.studio

Website> [www.andothers.studio](http://www.andothers.studio)



The Client shall advise parties involved in the communication of the foregoing credit requirements and shall use its commercially reasonable efforts to achieve that such third parties comply with such requirements to include the appropriate credits and tags.

- H. **Third parties ANDOTHERS.** ANDOTHERS may engage third parties in the course of the performance of an assignment.

ANDOTHERS shall, to the extent possible, consult the Client before instructing third parties. Any additional costs incurred by third parties are payable by the Client and are subject to the Client's prior written approval if they exceed € 500 (plus VAT).

ANDOTHERS shall exercise due care when engaging third parties.

ANDOTHERS shall not be liable towards the Client for any damage resulting from a third party's acts, omissions, negligence and/or failure to perform its obligations properly.

- I. **Intellectual Property Rights Client.** The Client warrants that it owns full and unencumbered right, title and interest in and to its trademark and the products which are authentic and freely distributable in the Territory.

The Client hereby authorises and licenses ANDOTHERS to (i) use its trademarks and all other distinctive signs (whether registered or unregistered, the "**Distinctive Signs**") from time to time affixed to its products, or otherwise used in relation thereto; (ii) publish images of its products in appropriate publicity materials for the sole purposes of enabling ANDOTHERS to its rights and performing its obligations hereunder.

The Client shall indemnify ANDOTHERS for any losses, costs, expenses (including reasonable legal expenses), damages and claims incurred by ANDOTHERS as a result of its products, trademarks and/or Distinctive Signs used on or in relation to them infringing (or being alleged to infringe) any third party's intellectual property rights.

- J. **Intellectual Property Rights ANDOTHERS** All intellectual property rights related to the Services and Deliverables as well as the entitlement to all artistic concepts, development data, reports and other technical information (if any), shall be owned and/or licensed (as the case may be) exclusively by ANDOTHERS and (ii) any and all goodwill in ANDOTHERS's intellectual property rights will inure solely to its benefit. The same applies if the Client or one of the Client's employees or contractors assists ANDOTHERS in developing intellectual property rights. The Client shall assist ANDOTHERS, at ANDOTHERS's expense, in obtaining, registering, perfecting and enforcing all trademarks or copyrights necessary to protect ANDOTHERS's interest in the Intellectual Property Rights established pursuant to this paragraph. The Client agrees and acknowledges on behalf of itself that it has no interest in ANDOTHERS's intellectual property rights other than the license granted under this Agreement.

The Client has the exclusive licence to use the Deliverables during the Term. During the Term ANDOTHERS does not have the right to licence, sell or otherwise use the Deliverables, other than for portfolio purposes. Upon termination or expiration of this Agreement, whether or not the Client used the Deliverables in the public domain, ANDOTHERS is entitled to use the Deliverables for any other purpose it deems fit, including but not limited for marketing purposes on its own (social media) channels.

- K. **Out-of-pocket expenses & extra work.** The Client shall reimburse all reasonable out-of-pocket expenses, such as travel expenses (including car rental), travel time, courier costs, supplies and other expenses, incurred by ANDOTHERS in relation to the Services and/or Deliverables.

The Client shall reimburse ANDOTHERS for all costs incurred as a result of the Client's instructions or lack of instructions or the inaccuracy of any materials, data and other information provided by the Client.

- L. **Termination.** ANDOTHERS shall be entitled to terminate this Agreement with immediate effect upon written notice if:



- (I) Client commits a material breach or persistently breaches this Agreement and (if remediable) does not remedy such breach within thirty (30) days of notice from ANDOTHERS of such breach; or
- (II) Client becomes or is deemed to be insolvent or is unable to pay its debts (within the meaning of the Dutch Insolvency Act) or a petition is presented or meeting convened or resolution passed for the purpose of winding up Client or Client enters into liquidation whether compulsorily or voluntarily or compounds with its creditors generally or has a receiver, administrator or administrative receiver appointed over all or any part of its assets or the other party ceases to carry on all or a substantial part of its business.

On the termination of this Agreement any (a) Fees and/or (b) commission on all orders received (i) up to the date of termination and (ii) for a period of three (3) months thereafter, shall be paid to ANDOTHERS.

- M. **Force majeure.** If ANDOTHERS cannot perform its obligations under this Agreement as a result of force majeure for a period of more than four (4) weeks, the Client shall have the right to terminate this Agreement with immediate effect without ANDOTHERS limiting its other rights or remedies or incurring any liability towards the Client in respect of such termination. "Force majeure" events include, but are not limited to, government measures, riots, acts of war, fires, natural disasters, floods, storms and strikes. Nothing in this paragraph will affect or excuse the Client's liabilities or obligation to pay Fees under this Agreement.
- N. **Effects of termination.** Upon termination of this Agreement, both Parties will cooperate in transition activities to minimise adverse impacts of the termination. Each will promptly cease use of the other Party's intellectual property rights.

On termination of this Agreement, each Party shall (a) return to the other Party all documents and materials (and any copies) containing, reflecting, incorporating or based on the other Party's Confidential Information and (b) erase all the other Party's Confidential Information from computer and communications systems and devices used by it, including such systems and data storage services provided by third parties (to the extent technically practicable), provided that a Receiving Party may retain documents and materials containing, reflecting, incorporating or based on the Disclosing Party's Confidential Information to the extent required by law or any applicable governmental or regulatory authority.

- O. **Complaints.** Complaints about invoices & fee statements or the performance by ANDOTHERS under this Agreement must be submitted in writing and described in a full and complete manner to enable ANDOTHERS to adequately respond and investigate the complaint, within thirty (30) days of receipt of such invoice & fee statement or after delivery the Services and/or Deliverables. If complaints are not made within this timeframe, it will be assumed that the Client has fully accepted invoice & fee statement or the result of the Services and/or Deliverables. so that.

Complaints will be replied to within fourteen (14) days from the date of receipt. If a complaint requires a longer processing time, ANDOTHERS will reply within fourteen (14) days with a notice of receipt and an indication of when the Client can expect a more detailed answer. If a complaint is justified, Anchormen shall continue to execute the work as set out in the agreement, unless this has become demonstrably meaningless to the Client. In which case this must be communicated by the Client in writing. The Client shall provide ANDOTHERS with the full cooperation required for investigating the complaint, including allowing ANDOTHERS to launch or to have an investigation launched on site to determine the nature of the complaint, including the quality of the Services and/or deliverables

- P. **Confidentiality.** Each Party shall not disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other Party, except that each Party may disclose the other Party's confidential information: (i) to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the Party's rights or carrying out its obligations under or in connection with this Agreement and provided that such recipients comply with this clause; and (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

This paragraph shall survive termination of this Agreement.



- Q. **Assignment.** The Client may not assign, transfer, charge, sub-contract or otherwise dispose of this Agreement or any of its rights or obligations arising hereunder with ANDOTHERS's prior written consent which shall not be unreasonably withheld or delayed.

ANDOTHERS shall be entitled to assign this Agreement to any entity controlled by, controlling or under common control with, ANDOTHERS or controlled by Mirko Musmeci.

- R. **Non-solicitation.** The Client acknowledges that the relationship ANDOTHERS has with its employees and sub-contractors is vital for the successful continuation of ANDOTHERS's business. The Client further acknowledges that the solicitation by the Client of ANDOTHERS's employees or sub-contractors with whom the Client has had regular and direct contact with would cause ANDOTHERS significant economic loss. Accordingly, during the Term and for a period of twenty-four (24) months following the termination or expiry of this Agreement the Client shall not, and shall procure that its affiliates do not, solicit the services (whether as an employee or independent contractor, directly or indirectly) of any employee or sub-contractor of ANDOTHERS or any of its affiliates that the Client has had regular and direct contact with during the Term. Without prejudice to any other remedies or rights to remedies ANDOTHERS may have, the Client acknowledges and agrees that any breach of this non-solicitation covenant shall entail the immediate application of a payment by the Client to ANDOTHERS of EUR ten thousand (€ 10,000) per breach and, in addition, the sum of EUR two thousand five hundred (€ 2,500) for each day that the Client continues to be in breach, without the need to serve notice on the Client, the need to prove actual damage or the need of a court order and without prejudice to any right of ANDOTHERS to recover damages in excess of the amounts specified in this paragraph or to make use of any other legal remedy. If any of the provisions of this paragraph are deemed to exceed the time, geographic or other limitations permitted by applicable law, they shall not be nullified but shall automatically be adjusted to conform with the maximum permitted by applicable law.

ANDOTHERS is relying on the Client's agreement to these terms and its intent to be bound by the terms by evidence of his signature. Without the Client's signed agreement to these terms, ANDOTHERS would not introduce any opportunity or disclose any confidential information to the Client as herein described.

This paragraph shall survive termination of this Agreement.

- S. **Data Protection.** The Parties agree that, to the extent ANDOTHERS processes any personal data on behalf of the Client, the Client shall be the Controller and ANDOTHERS shall be the Processor (as defined in applicable data protection legislation). As the Controller, the Client shall ensure its processing instructions comply with applicable data protection legislation and enter into a data processing agreement with ANDOTHERS.
- T. **Limitation of Liability.** The distribution of liability between the Client and ANDOTHERS shall be made with due observance of (a) the standards of reasonableness and fairness and (b) limitations of liability customary in this industry.

ANDOTHERS will only be liable for its own acts or omissions and not for acts or omissions of third parties. This expressly excludes liability for acts or omissions of the providers of sub-contractors, or for events or activities originating outside ANDOTHERS's system (such as infrastructure failure, internet disturbances or malfunctioning in third party systems), except in case such events were caused by ANDOTHERS's wilful misconduct or gross negligence.

The aggregate liability of ANDOTHERS under or in connection with this Agreement, whether arising from breach of contract (*tekortkoming in de nakoming*) or otherwise, related to a liability event or series of connected liability events shall be limited in the aggregate to the lower of (a) EURO ten thousand (€ 10,000) or (b) the fees paid by the Client to ANDOTHERS.

In no event shall ANDOTHERS be liable to the Client for any loss of profits or incidental, indirect, special, consequential or punitive damages, including any damages (howsoever caused) based on loss of sales or lost revenues, business interruption or loss of information, production failure, impairment of other goods or otherwise, loss of bargain, loss of opportunity, goodwill, loss of computer equipment, software or data, or loss of time which may arise in connection with this Agreement even if it has been advised of the possibility of such damages. or for any indirect or consequential loss or damage).

ANDOTHERS cannot under any circumstances be held liable for damages resulting from force majeure.



- U. **Indemnification.** Any damages and other legal claims resulting from alleged breaches on the part of ANDOTHERS must be notified to ANDOTHERS within 14 business days of the Client establishing the breach, on penalty of forfeiture of rights and/or claims. Without prejudice to the provisions of article 6:89 of the Dutch Civil Code, the Client's claims and/or rights will lapse if the matter is not brought before the competent courts within one (1) year after a breach or defect in performance has been notified to ANDOTHERS.
- The Client indemnifies and holds ANDOTHERS harmless from and against any and all third-party claims, including reasonable legal costs, related in any way to the activities carried out for the Client (including but not limited to portrait rights or intellectual property rights of third party persons and/or brands owners).
- V. **Governing Law.** This Agreement and any dispute, controversy, proceedings or claim of whatever nature arising out of or in any way relating to this Agreement or its formation (including any non-contractual disputes or claims), shall be governed by and construed in accordance with the laws of The Netherlands
- W. **Exclusive Jurisdiction.** Courts of Amsterdam, The Netherlands. Notwithstanding the foregoing, ANDOTHERS shall retain the right to apply at any time for injunctive, other interlocutory or emergency relief to any court of competent jurisdiction.
- X. **General Provisions.** Verbal agreements, statements or assurances have no legal force unless these have been confirmed in writing by the other Party (including confirmations by email).
- (I) No amendment of this Agreement shall be binding upon either Party, unless it is in writing and duly signed by both Parties (including confirmations by email).
- (II) Failure by either Party to enforce or to exercise at any time or for any period of time any right pursuant to this Agreement does not constitute, and shall not be construed as, a waiver of such right and shall in no way affect that Party's right to enforce or to exercise any such rights.
- (III) The relationship of the Parties is that of independent contractors dealing at arm's length. Except as otherwise stated in this Agreement, nothing in this Agreement shall constitute the Parties as partners, joint ventures or co-owners, or constitute either party as the agent, employee or representative of the other, or empower either Party to act for, bind or otherwise create or assume any obligation on behalf of the other, and neither Party shall hold itself out as having authority to do the same.
- (IV) The Parties agree that no (general) terms or conditions of the Client are applicable to this Agreement.
- (V) This Agreement may be executed and delivered in any number of counterparts (by original, facsimile, PDF or other electronic means) each of which when so executed shall be deemed to be an original and such counterparts, taken together, shall constitute one and the same agreement.
- (VI) If, at any time, any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under any law or regulation of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law or regulations of any other jurisdiction will in any way be affected or impaired.
- (VII) This Agreement is for the exclusive benefit of the Client and ANDOTHERS and not for the benefit of any third party, including, without limitation, any employee, affiliate, sub-contractor or vendor of the Client or ANDOTHERS.
- (VIII) Any obligation undertaken hereunder by either Party that, by its nature or its terms, is intended to extend beyond the Term shall survive the termination hereof.
- (IX) The Parties wish to collaborate only on the basis of an agreement for services within the meaning of Section 7:400*et seq.* of the Dutch Civil Code (*Burgerlijk Wetboek*).
- (X) The Parties expressly do not intend to conclude an employment contract within the meaning of Section 7:610*et seq.* of the Dutch Civil Code and also explicitly exclude it.

- (XI) The Parties, as the occasion arises, opt to exclude the applicability of a notional employment relationship with home workers or equivalent workers as referred to in Articles 2b and 2c Implementation Order Wage Tax 1965 (*Uitvoeringsbesluit Loonbelasting 1965*) and Articles 1 and 5 of the Decree designating cases in which employment relationship is considered employment (Decree of 24 December 1986, Official Gazette 1986, 655) (*Besluitaanwijzing gevallen waarin arbeidsverhouding als dienstbetrekking wordt beschouwd (Besluit van 24 december 1986, Stb. 1986, 655)*), to which end they are drawing up and signing this Agreement before payment is effected.
- (XII) This Agreement is based on the model agreement drawn up by the Dutch Tax Authorities on 1 June 2021 under number 90821.25537.1.0. The provisions marked in that agreement are incorporated in this Agreement unchanged. To the extent that in this Agreement changes have been made, the Parties believe that these adjustments do not affect the provisions highlighted in the model agreement.
- (XIII) ANDOTHERS accepts the assignment and thereby accepts full responsibility for the correct performance of the agreed services. Notwithstanding the foregoing, the assignment is in the nature of a best efforts obligation (*inspanningsverbintenis*). ANDOTHERS does not guarantee that the intended result can be achieved. ANDOTHERS's fees do not therefore depend on the result of the work and services commissioned.
- (XIV) ANDOTHERS will be entirely independent in the performance of the agreed activities. ANDOTHERS will carry out the agreed activities at his discretion and without being supervised or managed by the Client. However, the Client may provide directions and instructions as regards the result of the assignment. In case of cooperation with others, however, ANDOTHERS will consult the Client where this is necessary for the execution of the assignment, so as to ensure that the assignment is carried out in the best possible way. If necessary for the execution of the services, ANDOTHERS will comply with the working hours of the Client.
- (XV) The Client provides ANDOTHERS with full authority and all information necessary for correct execution of the assignment.
- (XVI) The Client expressly agrees that ANDOTHERS's may also perform activities for other clients during the term of this Agreement.
- (XVII) Both Parties agree to do all acts and things and execute all further and other documents as may reasonably be necessary to carry out the terms of this Agreement.